

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
BRYSON CITY DIVISION**

<b>IVA J. SMITH,</b>	)	
<b>Plaintiff</b>	)	
<b>v.</b>	)	<b>Civil Action</b>
	)	<b>No. 2:07-CV-00021-LHT</b>
<b>MICHAEL J. ASTRUE</b>	)	
<b>Commissioner of Social Security,</b>	)	
<b>Defendant</b>	)	

**CONSENT ORDER WITH REMAND  
PURSUANT TO SENTENCE FOUR OF 42 U.S.C. SECTION 405 (g)**

**THIS MATTER** is before the Court on motion of the Defendant, Michael J. Astrue, pursuant to sentence four of 42 U.S.C. section 405(g), to enter a judgment reversing the Defendant Commissioner's decision with a remand of the cause for further administrative proceedings. The Plaintiff joins in the motion.

On remand to the Commissioner, the Administrative Law Judge will be instructed to obtain a copy of the July 17, 2006, proffer letter relative to the report of Dr. Anthony Carraway and include it in the record. The Administrative Law Judge will conduct a supplemental hearing in accordance with HALLEX I-2-7-30 and then issue a new decision, being sure to evaluate the severity of Plaintiff's mental impairments utilizing the special technique outlined in 20 C.F.R. sections 404.1520a(e) and 416.920a(e) and rating Plaintiff's degree of limitation in each of the four functional areas.

Pursuant to the power of this Court to enter a judgment affirming, modifying or reversing the Commissioner's decision with remand in Social Security actions under sentence four of 42 U.S.C. section 405(g), and in light of the Commissioner's and Plaintiff's request to remand this action for further proceedings,

**IT IS, THEREFORE, ORDERED** that the Commissioner's decision is **REVERSED** pursuant to sentence four of 42 U.S.C. section 405(g), and this matter is **REMANDED** to the Commissioner for further proceedings as outlined in this Order. *See Melkonyan v. Sullivan*, 501 U.S. 89 (1991). The Clerk of the Court is directed to enter a separate judgment pursuant to Rule 58 of the Federal Rules of Civil Procedure.

As there remains no justiciable dispute pending between the parties, upon the Clerk's entry of judgment, the Court's jurisdiction over this case shall terminate except for purposes of consideration and determination of motions for attorney's fees, including any motion for such fees under the Equal Access to Justice Act ("EAJA"). Plaintiff shall have thirty (30) days from final judgment in which to file any motion for attorney's fees under EAJA in this matter.

Signed: April 25, 2008

A handwritten signature in black ink, appearing to read 'L. H. Thornburg', written over a horizontal line.

Lacy H. Thornburg  
United States District Judge

